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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

CARMEN P.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN  
DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY et al.,

Real Parties in Interest.

D052918

(San Diego County  
Super. Ct. No. SJ11676A-C)

PROCEEDINGS for extraordinary relief after reference to a Welfare and  
Institutions Code section 366.26 hearing. Susan D. Huguenor, Judge. Petition denied.

Carmen P. seeks writ review of orders terminating her reunification services and  
setting a Welfare and Institutions Code<sup>1</sup> section 366.26 hearing regarding her three

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

children, Elizabeth P., Angelica P. and Manuel P. She contends there was not substantial evidence presented to support the jurisdictional findings that Elizabeth was a person described by section 300, subdivision (i) or that Angelica and Manuel were persons described by section 300, subdivision (j); and the court erred by finding there was a substantial risk to the children if they were returned home and by not specifying the factual basis for its findings. We deny the petition.

## FACTUAL AND PROCEDURAL BACKGROUND

### *I. Background Information*

After Elizabeth was born in 1997, she was neglected by her birth parents and lived with her grandmother for a time. She was placed with Carmen when she was three years old, and Carmen subsequently adopted her. Carmen reported Elizabeth's behavior was disturbing when she first came to live with her, including excessive bedwetting, throwing food and sexualized and impulsive behavior.<sup>2</sup> However, Carmen said that with caring, consistency and limit setting, Elizabeth improved.

There were reports that Carmen was abusing Elizabeth in 2004 and 2005, but the reports were not substantiated and Elizabeth, Angelica and Manuel, whom Carmen also had adopted, remained in Carmen's care. In August 2006 there was another report of abuse, and the children were taken into protective custody.

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<sup>2</sup> In September 2001 Carmen took Elizabeth to a hospital because of her unmanageable behavior. Elizabeth was diagnosed with disruptive behavior disorder. She had been diagnosed earlier with posttraumatic stress disorder, oppositional defiant disorder and intermittent explosive disorder.

On August 22, 2006, the San Diego County Health and Human Services Agency (the Agency) petitioned on eight-year-old Elizabeth's behalf under section 300, subdivision (i), alleging she had been subjected to acts of cruelty, including being forced to stand for hours as punishment, tied to a chair, not allowed to use the toilet until she soiled herself, hit with a belt or a cord, required to sleep and eat on the floor and deprived of food. The Agency also petitioned on behalf of six-year-old Angelica and three-year-old Manuel under section 300, subdivision (j), alleging they were at risk because of the abuse Elizabeth had suffered. On October 11, 2006, the Agency filed an amended petition, adding Elizabeth had scars on the tops of her feet that Carmen had caused, and Carmen had denied Elizabeth proper nutrition.<sup>3</sup>

Carmen's husband, L.W., described the abuse of Elizabeth. Carmen denied abusing Elizabeth and said L.W. was merely trying to punish her because they were having marital problems. The social workers reported Elizabeth appeared thin and less healthy than Angelica. Elizabeth denied she was being abused.

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<sup>3</sup> The medical report dated August 15, 2006, reported Elizabeth had healed scars on her back, left arm, left shoulder, both knees and the tops of both feet. Her height and weight placed her in the bottom 10 percent of children her age. When Elizabeth was weighed five months later on January 19, 2007, she had gained nearly 14 pounds. The doctor who examined Elizabeth in January stated that what had earlier been seen as scarring on her feet was no longer noticeable and the other scars had faded. He said he could not tell without a history whether the scarring was accidental or not.

The court made prima facie findings on the amended petitions, ordered the children detained in foster care and ordered Carmen would have no contact with Elizabeth, but would have supervised visitation with Angelica and Manuel.

Elizabeth was detained in a group home and Angelica and Manuel in foster care. On December 18, 2006, L.W. recanted the accusations he had made against Carmen. At a settlement conference on February 1, 2007, Carmen submitted to amended petitions. The court dismissed the subdivision (i) and (j) allegations, found true allegations in amended petitions under section 300, subdivision (b), that alleged the children had been subjected to neglect, and ordered services for Carmen, including participation in a parenting class, a psychological evaluation, individual therapy and visitation with Angelica and Manuel.<sup>4</sup>

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<sup>4</sup> Carmen stipulated to the following petitions under section 300, subdivision (b): "Count 1: On or about and between 8/14/06 to 8/17/06, the minor was not provided with a suitable home, shelter and place of abode by the mother having custody of said minor in that, the home was inadequate in space/furnishings/essential facilities and utilities[ ], including the child was in an emotionally detrimental environment due to the frequent altercations between the mother and [L.W.]. This situation led to neglect and emotional harm on the children. [¶] Because of the frequent altercations the Health and Human Services Agency was required to conduct repeated investigations concerning the health[,] welfare and safety of the children. The most recent investigation showed: [¶] (a) Access to food was restricted, the family refrigerator was padlocked and there was a sign on the food and pantry shelf that stated 'Do not open, ask me.' [¶] (b) Elizabeth . . . gained 13.8 lbs from the date of removal until 01/19/07. [¶] (c) The children were not provided with adequate sleeping arrangements in that the minors slept on the floor. [¶] (d) There was no family table and the minors ate on the floor and the child is at substantial risk of suffering serious physical harm or illness pursuant to . . . section 300 (b)."

In February 2007 Elizabeth began to tell her therapist about how Carmen had abused her. She said Carmen tied her to a chair and hit her with a cord and would make her sit for a long time or stand on a square on the floor and not let her use the bathroom. This would sometimes cause Elizabeth to soil her clothes and then Carmen would not feed her. She reported Carmen once put a diaper on her and had her pose for inappropriate pictures, once put a bug or scorpion on her back and said if she moved it would bite her and she would die and forced her to stay in a dark garage for hours. She said she was afraid Carmen would kill her and replace her with another child. Elizabeth told the therapist she was afraid she would be hurt because she had divulged the family secrets, and she did not want to lose her family. She said Carmen's oldest daughter, 16-year-old Brittni<sup>5</sup> and L.W. saw her being mistreated, but did not help her, and Angelica and Manuel were too young to help.

Based on Elizabeth's disclosures, on April 4, 2007, the Agency filed subsequent petitions under section 342, alleging Elizabeth had been subjected to cruelty under section 300, subdivision (i), and Angelica and Manuel were at substantial risk under section 300, subdivision (j).

## II. *Jurisdictional Hearing*

At the jurisdictional hearing on the section 342 petitions, which began on January 14 and ended March 11, 2008, the court accepted into evidence numerous reports and

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<sup>5</sup> Carmen's adult son, D.W., and Brittni are Carmen's biological children. Brittni is not a dependent child of the juvenile court.

documentary evidence plus recorded interviews of Elizabeth, Angelica, Carmen and L.W. On February 26 Carmen petitioned under section 388, requesting the children be returned to her.

Elizabeth's therapist testified Elizabeth did not disclose the abuse she had suffered until after they had met a few times. She said Elizabeth suffered from posttraumatic stress disorder, and she was very clear and consistent in telling about the abuse; she repeated the allegations and never recanted. The therapist opined it was not unexpected that Elizabeth would not make disclosures until she had been away from her home for a time because children usually do not talk unless they feel safe, and sometimes they initially deny abuse out of a sense of loyalty to the family and a need to protect the parent.

Ten-year-old Elizabeth covered herself with a blanket during parts of her testimony. She said she knew that she had had another mother and father before she came to live with Carmen, but she had no memory of them abusing her. She testified Carmen told her to sleep on the floor and, when she got into trouble, Carmen hit her with a cord or belt and made her stand on a tile in the kitchen looking at the wall for long periods of time. Occasionally, she would fall asleep there. She said she also might fall asleep after being tied to a chair for hours and at times she got very hungry, but Carmen would not give her any food. She testified she sometimes soiled herself when she was forced to stand for a long time, and Carmen had taken pictures of her wearing only a diaper. She said when she was first removed, she lied and said Carmen was not mean to her because she was afraid Carmen would be mad, and she missed Carmen. After

Elizabeth testified, she was so distraught she had trouble walking, and the next day she wrote "help me" on her arms with a black marking pen. She sobbed to her teacher that Carmen would come and beat her.

Social workers Julie Smith, Sophia Sanchez and Nadia Najor and social work supervisor Rebecca Slade supported Elizabeth's account of her life with Carmen and testified they believed she was credible. They opined her delay in disclosing how she had been treated was a result of her fear of Carmen. Smith, Sanchez and Slade agreed it was not uncommon for abused children to love their parents and want to be with them because of a fear of the unknown. Smith, Najor and Slade said when Elizabeth first came into protective custody, she was very thin and had unkempt hair in contrast to Angelica and Manuel, who appeared healthy and well groomed. Elizabeth gained almost five pounds during the first month she was in custody. Since that time, she had gained approximately another 37 pounds and had grown six and one-half inches. She appeared to be concerned whether she would have food, and she and Manuel sometimes hoarded food. Medical professionals did not believe Elizabeth's weight gain was due to her medications. The nurse practitioner who examined Elizabeth said she had scarring on her back, arm, shoulder, knees and the tops of her feet. She opined Elizabeth had been deprived of calories in the past and, once she received proper nutrition, she began to grow and gain weight.

Najor testified that when she first interviewed the children, Carmen positioned herself to watch them and interrupted the interviews. Najor saw a chain and lock on the refrigerator door and a child's gate preventing access to the kitchen. Carmen's account of

where Elizabeth slept appeared unlikely, and Carmen said Elizabeth liked to eat on a mat on the floor so Manuel would not get into her food. Najor said Elizabeth did not disclose any abuse, but Angelica said Elizabeth ate and slept on a mat on the floor and that Elizabeth and Manuel were bad, so Elizabeth got medicine and Manuel got spanked. Najor reported Brittnei said when Elizabeth had toileting accidents, Carmen would take her into the garage to remove her clothing and then take her inside to cleanup. Najor said L.W. told her he feared Carmen. A social worker at the Veterans' Administration (VA) hospital told Slade L.W. had been talking about Carmen's abuse of Elizabeth for two years, and he said he was afraid of Carmen. Carmen's visits with Angelica and Manuel were reported to be appropriate, but Manuel became oppositional and had difficulty sleeping after visits. His behavior worsened after visitation was increased.

Sanchez reported that when Elizabeth attended Kids in Court she spontaneously told the judge she was there to tell about the bad things Carmen had done to her. When the children were told it was important to tell the truth, Angelica began to cry and said her job was to say only good things about Carmen. Angelica refused to discuss the family at all during her therapy sessions, even to say positive things. Sanchez opined all three children were at risk because of Carmen's denials.

The forensic interviewer from Chadwick Center testified Elizabeth was very distrustful when she first talked with her, but then began making statements about the abuse to her therapist. The interviewer opined the passage of time allowed Elizabeth to feel safe. She did not think Elizabeth was suggestible, but said she had been very guarded and saw Carmen as all powerful.



Elizabeth's psychiatrist from 2004 until June of 2006 testified he saw Elizabeth only to prescribe medication. He based his assessment of Elizabeth primarily on information Carmen provided; he never physically examined Elizabeth and never saw her out of Carmen's presence. He said there were gaps in his treatment of Elizabeth during the two years she was his patient and there would have been times she did not have medication.

Carmen denied abusing Elizabeth in any way. She described how the children slept where they liked in beds or on blow up beds on the family room floor, but said no one was forced to sleep or eat on a mat. Carmen said a "keep out" sign in the pantry in her home was designed to keep L.W. and Brittnei from opening multiple packages of food, and she put a lock on the refrigerator after Manuel opened it and broke a glass jar. She said L.W. had lived with her since 1999 or 2000, but had not lived with her on a continuous basis because of his parole or probation status. Carmen testified that at one time she had asked him to move out because he hit Elizabeth with a belt, and his declining health caused him to have hygiene problems. She testified Elizabeth always had a good appetite. She denied hitting her, tying her up, causing her pain or denying her access to the bathroom. Carmen said Elizabeth never had to do without medication, and she contradicted some of the psychiatrist's testimony and denied making several of the statements attributed to her by the social workers.

Seven-year-old Angelica agreed it was good to tell the truth and said she was being truthful, but noted it also was important to say good things about Carmen. She testified she wanted to live with Carmen and all her siblings, including Elizabeth. She

said Elizabeth was never tied to a chair and never made to eat or sleep on the floor. Angelica said she was never spanked or hit and Elizabeth was hit only one time. D.W. and Brittnei denied the accusations and said Carmen was a good mother and did not abuse the children.

L.W. testified he took several medications and required dialysis. He said he had mental problems, including schizophrenia, and he was somewhat suicidal. He insisted he never told anyone that Carmen mistreated him, denied Elizabeth had been abused and said he had made false accusations against Carmen because he was angry with her. Elizabeth's teacher and Manuel's head start teacher testified that Carmen appeared to be a caring mother and had a close relationship with the children.

At the close of testimony, the court found the allegations of the petitions to be true. It found Elizabeth's testimony compelling, the social workers credible and L.W.'s recorded statements also convincing. It found Brittnei was not credible and noted Carmen's testimony was impeached by other evidence.

### *III. Dispositional Hearing*

In the review report for the dispositional hearing, the social worker reported Carmen continued to claim all of the allegations of abuse had been fabricated.

At the hearing that began on April 7 and ended April 16, 2008, social worker Smith described the services that had been ordered for Carmen in February 2006. Social worker Sanchez testified Carmen had completed a psychological evaluation, a parenting class and was participating in therapy. She said Carmen continued to deny she had abused Elizabeth, and Carmen said the allegations were all lies. Carmen's therapist

reported Carmen did not discuss the allegations. Manuel's psychological evaluation suggested he had been exposed to some level of trauma and was overwhelmed by instability and unpredictability. Sanchez opined Angelica would be at risk in Carmen's care because she had witnessed the abuse of Elizabeth and denied it had happened. She recommended the children not be returned.

Angelica's therapist testified Angelica had an anxiety disorder and some symptoms of posttraumatic stress disorder. She did not talk about her family during therapy. The therapist said Angelica avoided conflict, wanted "bad things" not to happen and clung to an ideal of a happy family. The parties stipulated if Angelica were called to testify, she would say she loved Carmen, wanted to be with her and her siblings, no one got in trouble in her home, Carmen was always kind, she enjoyed visits and she loved and missed Elizabeth.

Carmen testified she accepted Elizabeth's accusations in that she understood Elizabeth believed Carmen had treated her in the ways Elizabeth described, and she validated Elizabeth's feelings. Carmen said she had been lied to, incorrect evidence had been presented and she had been afraid the Agency would retaliate against her.

Sanchez testified Elizabeth told her Court Appointed Special Advocate: "I won because I told the truth," "The judge believed me," and "That means I'm going to be safe from now on."

The court denied Carmen's section 388 petition. After further argument, it ordered no further services would be provided to Carmen because the children were suffering serious emotional damage and providing services to Carmen would not be in their best

interests. With regard to the review hearings, which had been trailed, the court found reasonable services had been provided and Carmen had made no progress. It terminated services and set a section 366.26 hearing.

## DISCUSSION

### IV. *Jurisdictional Findings*

Carmen contends the jurisdictional findings on the section 342 petitions were not supported by substantial evidence. She argues the Agency did not meet its burden to show she had subjected Elizabeth to acts of cruelty or that, at the time of the hearing, Angelica and Manuel were at substantial risk. She argues L.W. and Elizabeth's allegations of Carmen's abuse of Elizabeth are inherently improbable and incredible.

#### *A. True Finding That Elizabeth Had Been Subjected to Acts of Cruelty Under Section 300, Subdivision (i):*

Section 300, subdivision (i) provides a child comes within the jurisdiction of the juvenile court when "[t]he child has been subjected to an act or acts of cruelty by the parent . . . or the parent . . . has failed to adequately protect the child from an act or acts of cruelty when the parent . . . knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty."

A reviewing court must uphold a juvenile court's findings and orders if they are supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) " ' ' ' 'The rule is clear that the power of the appellate courts begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted, which will support the conclusion reached by the trier of fact." ' ' ' ' (*In*

*re Tanis H.* (1997) 59 Cal.App.4th 1218, 1227.) "[W]e must indulge in all reasonable inferences to support the findings of the juvenile court [citation], and we must also ' . . . view the record in the light most favorable to the orders of the juvenile court.' " (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114, quoting *In re Biggs* (1971) 17 Cal.App.3d 337, 340.) The appellant bears the burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

Determinations of credibility of witnesses and resolutions of conflicts in the evidence are for the trier of fact. (*In re Tanis H.*, *supra*, 59 Cal.App.4th at pp. 1226-1227.) The appellate court does not reweigh a witness's testimony. (*In re Amy M.* (1991) 232 Cal.App.3d 849, 859-860.) "Testimony may be rejected only when it is inherently improbable or incredible, i.e., ' "unbelievable *per se*," ' physically impossible or ' "wholly unacceptable to reasonable minds." ' " (*Oldham v. Kizer* (1991) 235 Cal.App.3d 1046, 1065, quoting *Evje v. City Title Ins. Co.* (1953) 120 Cal.App.2d 488, 492.) "The testimony of a single witness, even the party himself . . . , may be sufficient." (9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 369, p. 426.)

Carmen argues Elizabeth's statements were unreliable because they were based on suggestive questioning during multiple interviews, and Elizabeth was isolated from her for a prolonged period of time. However, Carmen did not offer an evidentiary objection to Elizabeth's testimony on this basis; thus she has forfeited the issue. "A party forfeits the right to claim error as grounds for reversal on appeal when he or she fails to raise the objection in the trial court." (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 221-222.) A "reviewing court ordinarily will not consider a challenge to a ruling if an objection could

have been but was not made in the trial court. [Citation.] . . . [¶] Dependency matters are not exempt from this rule." (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, fn. omitted.) Although Carmen's counsel extensively questioned witnesses about the manner in which Elizabeth was interviewed and argued that Elizabeth's testimony was unreliable, he did not make the appropriate evidentiary objection.

In any event, Carmen has not shown Elizabeth's statements were inherently improbable, incredible, physically impossible or a result of suggestive questioning. The jurisdictional findings were well supported by substantial evidence. Deborah Davies, the forensic interviewer who evaluated Elizabeth, had interviewed more than 2,000 children. She testified at length about the techniques she used during the evaluation and said that in order to ensure Elizabeth's account was trustworthy, she did not use leading questions. She conducted five sessions with Elizabeth after Elizabeth was first detained in August 2006. When she asked general questions about where family members ate and slept, Elizabeth said she did not want to talk about these things. Elizabeth mentioned conflict between Carmen and L.W., but said she did not want to talk about that. By the fifth session, the interviews were concluded. But later in February 2007, after Elizabeth began disclosing abuse to her therapist, a multi-disciplinary team decided to hold an evidentiary examination. The interviews resumed, and Elizabeth spontaneously began to disclose to Davies how she had been abused. Davies opined Elizabeth had been very guarded and was not suggestible. She said that even seriously abused children could want to return to a parent, and the more traumatic the child's experience had been, the longer it could take

the child to disclose abuse. Carmen has not shown the interviews of Elizabeth or Elizabeth's delay in disclosure undermined her credibility.

Although it is difficult to comprehend a parent subjecting a child to the abuse Elizabeth described, Carmen has not shown that Elizabeth's accounts are not believable or inherently improbable. The court expressly stated it believed Elizabeth and found her testimony to be compelling. Elizabeth's testimony alone would be sufficient to sustain the true finding that she had been subjected to cruelty under section 300, subdivision (i), but, in addition, her accounts were supported by other testimony and by physical evidence. Elizabeth's therapist reported Elizabeth was very clear and consistent, repeated the allegations and never recanted. The social workers testified they believed Elizabeth was credible and agreed with the therapist that she delayed disclosing the abuse until she felt safe. The social workers testified when Elizabeth first came into protective custody, she was thin and had unkempt hair in contrast to Angelica and Manuel. They noted a lock on the refrigerator door and that there were pictures of all of the children except Elizabeth on the mantle. Elizabeth began gaining weight as soon as she left Carmen's home, she appeared preoccupied with having enough food and, by the time of the hearings, she had gained significant weight and had grown several inches. The nurse practitioner who examined her opined she had been deprived of sufficient calories in the past.

Earlier statements by Angelica and Elizabeth also supported the allegations. When the social workers first came to the home, Angelica said Elizabeth slept on a roll-up bed, was sometimes tied to a chair and was not allowed to do things that she

(Angelica) and Manuel did. In 2004 Elizabeth had told the social worker Carmen did not want her to sleep in the bed. During the initial forensic interviews, although Elizabeth did not disclose abuse, she said she did not like being asked about Carmen's home. She said something might happen if she told what happened in the home and Carmen might be mad, but then added Carmen never got mad. Elizabeth told the social worker Carmen had told her not to tell or she would get into trouble, and that she was afraid, especially at night. Elizabeth's fear of Carmen was graphically illustrated when, after she testified in court, she wrote "help me" with a black marking pen on her arms and told her teacher she was afraid Carmen would come and beat her. It is also telling that Elizabeth threatened to tie staff to a chair in her group home when she was angry with them and said that is what Carmen would do.

The court also stated it found L.W.'s recorded account to be credible. L.W. had earlier claimed in 2004 and 2005 that Elizabeth was being abused. The social worker at the VA hospital said L.W. had been talking about the way Elizabeth was being treated for two years, and he said he had lied when he denied there was any abuse. The court stated it had reviewed the recorded interview of L.W. and observed that L.W. appeared not to be delusional, but to be focused and relieved to be telling the truth.

Carmen argues the allegations were incredible in light of assertions by Manuel's head start teacher, his adoptions social worker and Elizabeth's teacher, who all stated Carmen was a loving, caring mother to the children. However, Manuel's head start teacher's visits were always arranged ahead of time, she had seen Elizabeth only two or three times during the two years she had visited the family and then only to greet



Elizabeth as she was about to leave for school. Although Manuel's adoption social worker also had been to the home, it would be expected that these visits had been prearranged, and there was no evidence this individual had spent any time with Elizabeth. As to the testimony by Elizabeth's teacher, the teacher observed Elizabeth only at school. She had no knowledge about Elizabeth's home life except what Carmen told her. The positive interactions with Carmen that these individuals experienced do not cause Elizabeth and L.W.'s allegations of abuse to be improbable or incredible.

We also find significant the report of Carmen's psychological evaluation. The psychologist who evaluated Carmen stated she responded to testing in a highly defensive manner and attempted to portray herself in an overly favorable light. He reported her profile did not reveal any significant pathology, but there were significant elevations on scales measuring histrionic and narcissistic personality patterns, suggesting she is concerned with appearances and may attempt to downplay distressing emotions and deny troublesome relationships. He further stated "she may appear charming to casual acquaintances, but as being more testy, demanding and manipulative to those who have a more enduring and intense relationship with her." The psychologist opined that if the court were to find Carmen had abused Elizabeth, the diagnostic picture would change significantly, and Carmen would be diagnosed not only with neglect and physical abuse of a child but, based on the length and severity of the abuse and her continued denial, she likely would be found to have antisocial personality traits.

The court's finding that the allegations of cruelty under section 300, subdivision (i) were true is supported by substantial evidence.

*B. True Finding That Angelica and Manuel Were at Substantial Risk Under Section 300, Subdivision (j) Because of the Abuse of Elizabeth*

Section 300, subdivision (j) provides a child comes within the jurisdiction of the juvenile court when the child's sibling has been abused or neglected as defined by subdivisions (a), (b), (d) or (i) and there is substantial risk the child also will be abused or neglected.

A juvenile court is not required to wait until a child is actually hurt before assuming jurisdiction. (*In re Diamond H.* (2000) 82 Cal.App.4th 1127, 1136, disapproved on other grounds in *Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 748, fn. 6.) The focus of the statute is to avert harm to the child. (*In re Jamie M.* (1982) 134 Cal.App.3d 530, 536.)

Substantial evidence was presented to show Angelica and Manuel were at substantial risk in Carmen's home. Angelica made statements to the social workers when they first came to the home, but then said she did not remember making statements about how Elizabeth had been treated and denied there had ever been any kind of abuse or even discipline in the home. Angelica's therapist stated Angelica was suffering from an anxiety disorder and had some symptoms of posttraumatic stress disorder and low self-esteem, which is common among children who have been abused or have witnessed abuse. He said sometimes her thought processes shut down when thinking about a certain topic and that this was common among abuse and trauma survivors. He said Angelica avoided dealing with any conflict, did not want to talk about her family and saw

Elizabeth as a problem child. He stressed it was important that she try to address these issues in order to alleviate the problems they would cause her later in life.

Initially, Manuel appeared reluctant to go to visits with Carmen. A few minutes before visits ended he would pick up his belongings and stand by the door, showing he was ready to leave. At later visits, he talked and interacted, but at his foster home, his behavior regressed. When visits were increased to two times each week, he acted out in the foster home, supporting an inference that he was afraid of Carmen. When the social workers first visited the home, Angelica said Manuel was always bad and that Carmen spanked him. What is more, Manuel, like Elizabeth, hoarded food, and Elizabeth said sometimes Manuel sat with her on the mat when they were eating. Also, Manuel did not want people to touch him. When Carmen attempted to help in an inspection of his body, he ran away, and when she grabbed him, he cringed. Social worker Sanchez testified that in 2007 Manuel was diagnosed with reactive attachment disorder, which is symptomatic of a child who has been exposed to trauma. She said that a child with this disorder would have been neglected or not provided with substantial emotional or psychological support.

It is also reasonable to infer that if the child who has been abused is removed from the home, another child will take his or her place. (*In re Edward C.* (1981) 126 Cal.App.3d 193, 203.) Based on the evidence, a trial court could properly conclude that because Elizabeth was subjected to terrible abuse, which Carmen continued to deny, Angelica or Manuel would be at substantial risk of abuse if Elizabeth were removed from the home. Substantial evidence supports the true finding under section 300, subdivision (j).

## V. *Risk to the Children of Returning Them to Carmen's Custody*

Carmen asserts the court erred by finding that returning the children to her would create a substantial risk of detriment to their physical and emotional well-being. She argues there was insufficient evidence to support this finding and the court did not specify the factual basis for its decision.

At the hearing, Carmen did not object that the court had not specified the factual basis for not returning the children to her custody. She has thus forfeited the issue, and this court may imply the necessary findings if there is sufficient evidence to support them. (*In re Steve W.* (1990) 217 Cal.App.3d 10, 27-28.) Additionally, substantial evidence supports the findings.

Although Carmen participated in the services that were ordered by her service plan, she did not make progress, and she continued to deny she had abused Elizabeth in any way; thus Elizabeth remained at substantial risk. The court found the social workers to be credible, that Carmen's testimony was impeached by other evidence and it commented on the children's psychological suffering. Angelica's therapist testified Angelica's symptoms were a result of experiencing trauma and that she required effective treatment and an appropriate caregiver to reduce the risks she faced. Evidence was presented to show that Manuel also was at substantial risk. Angelica had mentioned he was bad and Carmen spanked him. Manuel, like Elizabeth, hoarded food, and Elizabeth said sometimes he sat with her on the mat when they were eating. He did not want people to touch him and appeared to be afraid of Carmen. It could be inferred that once Elizabeth was removed, another one of the children would take her place. (*In re Edward*

*C.*, *supra*, 126 Cal.App.3d at p. 203.) The findings the children would be at substantial risk if returned to Carmen's custody is supported by substantial evidence.

DISPOSITION

The petition is denied.

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HALLER, J.

WE CONCUR:

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BENKE, Acting P. J.

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IRION, J.